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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
.....X

PATRICK F. D'CUNHA

Plaintiff
v.
ECKERD CORPORATION
Defendants,
.....X

Civil Action No.
02-cv-4157(CRW) (LB)

**Plaintiff's Affidavit
in support of
MOTION for JUDGMENT
NOT WITHSTANDING JURY VERDICT;
(Rule 50)
IN THE ALTERNATIVE
MOTION for A NEW TRIAL
(RULE 59)**

I, Patrick F. D'Cunha, being duly sworn, deposes and says:

1. I am the Plaintiff Pro-Se in the above captioned case and I am fully familiar with the facts and circumstances contained herein and I submit this affidavit in support of the Motion for leave to file a Second Amended Complaint.
2. I filed this suit in July 2002, claiming age discrimination by Eckerd, under ADEA.
3. Specifically Eckerd rejected me because of my age on two occasions, Aug. 2001 and Feb. 2002, despite my qualifications for an entry level Pharmacist Job.
4. After the 2nd Circuit remanded the case for trial in 2007, this court granted Plaintiff's motion to file Amended Complaint (on 8/10/09), which he did on 8/12/2009.
5. The Defendant served its Answer on November 24, 2009.
6. Thereafter a jury trial was held from 12/7/09 to 12/10/09.
7. The jury returned the verdict in favor of the Defendant Eckerd.
8. Judgment was entered for the Defendant on 12/10/2009.

For reasons set forth in the accompanying Memorandum of Law, I, Plaintiff D'Cunha requests this Honorable Court to grant his Motions for Judgment not withstanding Jury verdict, in the alternative, A New Trial and Relief from Judgment.

6. A true and correct copy of D'Cunha's First Amended Complaint is attached as Exh. "A" "P₁". (P)
7. A true and correct copy of Answer of Defendant Eckerd Corporation to Plaintiff's First Amended Complaint attached as Exh. "B" "P₂". (D)
8. A true and correct copy of Judgment of the court as Exh. "C"
9. A true and correct copy of Plaintiff's Admitted Exhibit list as Exh. "D"

10 A true and correct copy of Defendant's admitted Exhibit list as Exh. "E"
11 A true and correct copy of Trial Transcripts as Exhibit "F" (Four Volumes).

12 A true and correct copy of Deposition of Tran, is attached as Exh. ~~H~~ "P 12" 

13 ~~A true and correct copy of Deposition of Delan is attached as Exh. "H".~~ } 

14 ~~A true and correct copy of Deposition of DCunha is attached as Exh. "I".~~ } 

15 ~~A true and correct copy of Deposition of Colarizzi Jr. is attached as Exh. "J".~~ }

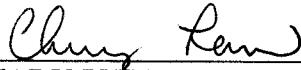
Wherefore, I respectfully request this Honorable court to grant Plaintiff's Motion for Judgment Not Withstanding the Verdict; in the the alternative, grant New Trial, as well as such other and further relief that may be just and proper.

Respectfully submitted,


PATRICK F. D'CUNHA, Plaintiff Pro-Se
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State of New York
County of Queens

Sworn to before me this 28th Day of December, 2009.


NOTARY PUBLIC

Chung L. Lam
Notary Public, State of New York
No. 01LA8120888
Qualified in Queens County
Commission Expires Jan 03, 2013